



House of Representatives

File No. 921

General Assembly

January Session, 2015

(Reprint of File No. 680)

Substitute House Bill No. 6923
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 30, 2015

AN ACT CONCERNING DNA TESTING FOR PERSONS ARRAIGNED FOR A SERIOUS FELONY.

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Subsection (a) of section 54-102g of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *January 1, 2016, and applicable to arraignments on or after said date*):

4 (a) (1) Whenever any person is [arrested on or after October 1, 2011,
5 for the commission of a serious felony] arraigned and the court finds
6 there is probable cause to believe such person committed a serious
7 felony, and, prior to such [arrest, has been convicted of a felony but]
8 arraignment, has not submitted to the taking of a blood or other
9 biological sample for DNA (deoxyribonucleic acid) analysis pursuant
10 to this section, [the law enforcement agency that arrested such person
11 shall, as available resources allow, require such person to submit] the
12 prosecutorial official shall request and the judge shall order that such
13 person submit, as required by the Court Support Services Division and
14 as available resources allow, to the taking of a blood or other biological

15 sample for DNA (deoxyribonucleic acid) analysis to determine
16 identification characteristics specific to the person. [If the law
17 enforcement agency requires such person to submit to the taking of
18 such blood or other biological sample, such] If such person is in the
19 custody of the Department of Correction, such person shall submit, as
20 required by the Department of Correction and as available resources
21 allow, to the taking of a blood or other biological sample for DNA
22 (deoxyribonucleic acid) analysis to determine identification
23 characteristics specific to the person.

24 (2) Such person shall submit to the taking of such sample [prior to
25 release from custody and] at such time and place as the [agency] Court
26 Support Services Division or the Department of Correction may
27 specify. For purposes of this subsection, "serious felony" means a
28 violation of subdivision (2) of subsection (a) of section 53-21, section
29 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-55, 53a-55a, 53a-56, 53a-56a,
30 53a-56b, 53a-57, 53a-59, 53a-59a, 53a-59b, 53a-59c, 53a-60, 53a-60a, 53a-
31 60b, 53a-60c, 53a-70, 53a-70a, 53a-70b, 53a-70c, 53a-71, 53a-72a, 53a-72b,
32 53a-73a, 53a-92, 53a-92a, 53a-94, 53a-94a, 53a-95, 53a-100aa, 53a-101,
33 53a-102, 53a-102a, 53a-103, 53a-103a, 53a-111, 53a-112, 53a-134, 53a-135,
34 53a-136, 53a-167c, 53a-179b, 53a-179c or 53a-181c.

35 Sec. 2. Subdivision (1) of subsection (a) of section 54-102h of the
36 general statutes is repealed and the following is substituted in lieu
37 thereof (*Effective January 1, 2016*):

38 (a) (1) The collection of a blood or other biological sample from
39 persons required to submit to the taking of such sample pursuant to
40 subsection (a) of section 54-102g, as amended by this act, shall be the
41 responsibility of the [law enforcement agency that arrested such
42 person] Judicial Department and shall be taken at a time and place
43 specified by [that agency prior to such person's release from custody]
44 the Court Support Services Division or, if such person is in the custody
45 of the Department of Correction, the Department of Correction shall be
46 responsible for the taking of such sample.

47 Sec. 3. Section 54-102l of the general statutes is repealed and the
48 following is substituted in lieu thereof (*Effective January 1, 2016*):

49 (a) A DNA profile that has been included in the data bank pursuant
50 to sections 54-102g to 54-102k, inclusive, as amended by this act, shall
51 be expunged in the event that (1) the [criminal] conviction or the
52 finding of not guilty by reason of mental disease or defect on which the
53 authority for including the person's DNA profile was based has been
54 reversed and the case dismissed or such person has been granted an
55 absolute pardon for such conviction, or (2) if the DNA profile of a
56 person has been included in the data bank on account of the person
57 being (A) arrested as provided in subsection (a) of section 54-102g of
58 the general statutes, revised to January 1, 2015, or (B) arraigned and a
59 court's finding of probable cause in accordance with subsection (a) of
60 section 54-102g, as amended by this act, the charge has been dismissed
61 or nolleed or the person has been acquitted of the charge.

62 (b) The Division of Scientific Services within the Department of
63 Emergency Services and Public Protection shall [purge] immediately
64 expunge all records and identifiable information in the data bank
65 pertaining to the person and destroy all samples from the person upon
66 receipt of a certified copy of (1) the court order reversing and
67 dismissing the conviction or the finding of not guilty by reason of
68 mental disease or defect or notification of an absolute pardon for such
69 conviction, or (2) the court order dismissing or nolling the charge or
70 acquitting the person of the charge.

71 (c) Any person whose records and identifiable information in the
72 data bank are required to be expunged and samples from such person
73 are required to be destroyed in accordance with the provisions of this
74 section, may request confirmation of such expungement and
75 destruction of samples from the Division of Scientific Services within
76 the Department of Emergency Services and Public Protection. The
77 division shall confirm such expungement and destruction of samples
78 not later than thirty days after receipt of such request. If such person's
79 records and identifiable information and all samples from such person

80 have not been expunged or destroyed and the division is in possession
81 of a certified copy of the documentation described in subdivision (1) or
82 (2) of subsection (b) of this section, the division shall immediately
83 expunge such records and information and destroy such samples and
84 shall send confirmation to such person. If the division has not received
85 a certified copy of such documentation required by this section in
86 order to expunge such records and information and to destroy such
87 samples, the division shall instruct such person to obtain such copy
88 and to submit the copy to the division. If the division receives such
89 copy, the division shall immediately expunge such records and
90 information and destroy such samples and shall send confirmation to
91 such person.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2016, and applicable to arraignments on or after said date</i>	54-102g(a)
Sec. 2	<i>January 1, 2016</i>	54-102h(a)(1)
Sec. 3	<i>January 1, 2016</i>	54-102l

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Department of Emergency Services and Public Protection	GF - Cost	Less than \$50,000	Less than \$50,000
Correction, Dept.; Judicial Dept.	GF - Cost	Approximately \$10,000 Combined	Approximately \$10,000 Combined

Note: GF=General Fund

Municipal Impact: None

Explanation

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The bill expands the list of offenses for which persons must submit to the taking of a blood or other biological sample for use in identification analysis.

Based on calendar year 2014 statistics, the bill is anticipated to result in the collection and testing of approximately 1,000 additional biological samples.

Such expanded sample collection duties are anticipated to result in a total combined cost of approximately \$10,000 in FY 16, and annually thereafter, to both the Judicial Department and Department of Corrections. To perform the additionally required blood and biological analyses, the Department of Emergency Services and Public Protection is anticipated to incur additional costs of less than \$50,000 in FY 16, and annually thereafter. Such costs may be mitigated by available federal grants supporting the implementation of certain criminal

justice policies.

House “A” strikes the underlying bill and associated fiscal impact resulting in the fiscal impact identified above.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 6923 (as amended by House "A")******AN ACT CONCERNING SEXUAL ASSAULT.*****SUMMARY:**

Current law generally requires people arrested for any of 39 serious felonies to provide a DNA sample before they are released from custody if they were previously convicted of a felony and have not already provided a DNA sample.

This bill:

1. requires the sample to be taken (a) after arraignment, and only if the court finds there is probable cause that the person committed the crime and (b) regardless of whether the person has a prior felony conviction;
2. extends the requirement to eight additional crimes; and
3. requires that the sample be collected by the Judicial Branch's Court Support Services Division, or the Department of Correction (DOC) for persons in DOC custody, rather than the arresting law enforcement agency as under current law.

As under current law, the requirement to collect samples applies only if the resources are available to collect the sample. By law, the Division of Scientific Services within the Department of Emergency Services and Public Protection (DESPP) must analyze the samples as available resources allow.

The act also expands the circumstances under which DESPP must expunge a DNA profile from the DNA data bank and destroy the

related samples, by requiring this to occur if the person has been granted an absolute pardon. In all cases in which the law provides for expungement of records in the data bank and destruction of the samples, the bill (1) requires the division to do so immediately after receiving the relevant court order or documentation and (2) creates a process for people to request confirmation of the record expungement and sample destruction.

The bill also makes technical and conforming changes.

*House Amendment "A" replaces the underlying bill, which made various changes affecting evidence in sexual assault cases.

EFFECTIVE DATE: January 1, 2016, and the provisions on submitting DNA samples after arraignment apply to arraignments on or after that date.

PROVIDING DNA SAMPLES AFTER ARRAINGMENT

The bill's requirement for collecting DNA samples after arraignment applies to 47 felonies, including 39 covered by existing law's requirement (see BACKGROUND) and the following eight additional crimes:

1. risk of injury to a minor by contact with intimate parts of a child under age 16;
2. first-degree assault of a DOC employee;
3. assault of a pregnant woman resulting in termination of pregnancy;
4. aggravated sexual assault of a minor;
5. second-, third-, and fourth-degree sexual assault; and
6. third-degree burglary.

EXPUNGEMENT OF DNA PROFILE AND SAMPLE DESTRUCTION

In addition to DNA samples taken after arrest as described above, the DNA data bank contains DNA samples of convicted felons, convicted sex offenders, and offenders found not guilty of felonies or sex offenses by reason of mental disease or defect.

Current law requires DESPP's Division of Scientific Services to expunge a DNA profile from the data bank if (1) a court reverses the criminal conviction or finding of not guilty by reason of mental disease or defect that constituted grounds for collecting the sample or (2) for a sample submitted by an arrestee, the charges were dismissed or nolle, or the person was acquitted. The division must purge all of the person's records and identifiable information in the data bank and destroy all samples in the data bank upon receipt of a certified copy of a court order setting forth these grounds.

The bill extends these expungement provisions to DNA profiles of people who have been granted an absolute pardon and specifies that the current procedures for post-arrest samples also apply to post-arraignment samples. For all cases requiring this expungement and sample destruction, it requires the division to do so immediately upon receipt of the appropriate court order or a certified copy of a pardon notification.

The bill allows any such qualifying person to request confirmation of the expungement and sample destruction from the division. The division must provide this confirmation within 30 days. If the division has possession of the required documentation but has not expunged the records or destroyed the samples, it must do so immediately and send confirmation to the person. If the division has not received the required documentation to support this action, it must instruct the person to obtain a copy and submit it. If the division receives a copy at this stage, the same requirements apply as specified above to immediately expunge the records and destroy the samples and send confirmation to the person.

BACKGROUND

Serious Felonies

The following 39 crimes are deemed serious felonies for purposes of current law's post-arrest DNA sample requirement.

Table 1: Serious Felonies Under Existing Law on DNA Samples

Murder	Murder with Special Circumstances	Felony Murder	Arson Murder
First- and Second-Degree Manslaughter	First- and Second-Degree Manslaughter with a Firearm	Second-Degree Manslaughter with a Motor Vehicle	Misconduct with a Motor Vehicle
First- and Second-Degree Assault	First- and Second-Degree Assault of Elderly, Blind, Disabled, or Pregnant Person or Person with Intellectual Disability	Second-Degree Assault with a Firearm	Second-Degree Assault With a Firearm of Elderly, Blind, Disabled, or Pregnant Person or Person with Intellectual Disability
First-Degree Sexual Assault	Aggravated First-Degree Sexual Assault	Sexual Assault in Spousal or Cohabiting Relationship	Third-Degree Sexual Assault with a Firearm
First- and Second-Degree Kidnapping	First- and Second-Degree Kidnapping with a Firearm	First-Degree Unlawful Restraint	Home Invasion
First- and Second-Degree Burglary	Second- and Third-Degree Burglary with a Firearm	First- and Second-Degree Arson	First-, Second-, and Third-Degree Robbery
Assault of Public Safety, Emergency Medical, Public Transit, or Health Care Personnel	Prison Rioting	Inciting Prison Rioting	First-Degree Stalking

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 42 Nay 0 (03/27/2015)